IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

THURSDAY, THE 23RD AUGUST 2007 / 1ST BHADRA 1929

WP(C).No. 16195 of 2007(C)

PETITIONER:

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1. ANNAMMA KURUVILLA,
   W/O.LATE ITTOOP KURUVILLA,
   POKADIYIL, KOTHAMANGALAM.

2. KUNJAMMA KURUVILLA,
   D/O.LATE ITTOOP KURUVILLA,
   'POKADIYIL', KOTHAMANGALAM.

BY ADV. SRI.K.JAYAKUMAR
SRI.P.B.KRISHNAN

RESPONDENTS:

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1. THE STATE OF KERALA, REPRESENTED BY
   THE SECRETARY, REVENUE DEPARTMENT,
   SECRETARIAT, THIRUVANANTHAPURAM.

2. THE DISTRICT COLLECTOR, ERNAKULAM.

3. THE REVENUE DIVISIONAL OFFICER,
   MUVATTUPUZHA.

4. THE TAHSILDAR, KOTHAMANGALAM.

BY GOVT.PLEADER SRI.PRAMOD

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 23/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF THE PARTITION DEED.

EXT.P2 TRUE COPY OF REVENUE RECEIPT DTD.13.3.2007.

EXT.P3 TRUE COPY OF THE NOTICE DTD.22.5.2007.

EXT.P4 TRUE COPY OF THE OBJECTION DTD.23.5.2007.

TRUE COPY

P.A.TO JUDGE

css/

S. SIRI JAGAN, J.

WP(C) NO.16195 OF 2007 - C

Dated this the 23rd day of August, 2007

J U D G M E N T

The petitioners challenge Ext.P3 notice issued to them directing them to vacate the properties mentioned therein within 24 hours. The contention of the petitioners is that the land mentioned therein is not Government land at all and further Ext.P3 has been issued in violation of principles of natural justice and the provisions of the Kerala Land Conservancy Act.

2. I have heard the learned Government Pleader also. The learned Government Pleader could not satisfy me that Ext.P3 was preceded by a notice or a hearing. Ext.P3 also does not contain any reasons as to why the emergency provisions as provided under the Kerala Land Conservancy Act should be invoked.

3. In the above circumstances, I am satisfied that Ext.P3 is liable to be quashed because of violation of principles of natural justice and provisions of the Kerala Land Conservancy Act. However, if Ext.P3 is treated as a

show cause notice, the same need not be quashed. In the above circumstances, the writ petition is disposed of with the following directions:-

The fourth respondent shall treat Ext.P3 as a show cause notice. The petitioners shall file their objections to the same within two weeks from today. Thereafter, the fourth respondent shall afford an opportunity of being heard to the petitioners which shall include opportunity to adduce evidence also. The fourth respondent shall, after considering the objections and evidences, pass a speaking order dealing with the contentions of the petitioners. Till after two weeks of communication of that order to the petitioners, the petitioners shall not be evicted from the property in question.

S. SIRI JAGAN,
Judge

Mbs/

S.SIRI JAGAN, J

W.P.(C) NO. OF 2001

J U D G M E N T

DATED:01-06-2007